

Minutes
Zoning Commission Meeting
March 10, 2020, 6:00 p.m.
City-County Building, City-County Chambers

Commission Members Present:

Rebecca Harbage, *Chair*
Mark Ophus
Kim Wilson

Staff Present:

Sharon Haugen, Community Development Director
Lucy Morrel-Gengler, Planner II
Hillary Taylor, Planner II
Stefani Reinhardt, Administrative Assistant III

Members of the Public Present:

Byron Stahly, Stahly Engineering & Associates, bstahly@seaeng.com
Darryl Rensmon, Opportunity Bank, drensmon@oppbank.com
Ryan Kendall, Stahly Engineering & Associates, rkendall@seaeng.com
Kacey Clayborn, Opportunity Bank, kclayborn@oppbank.com
Chris Hellwitz, Property Owner of 1327 Butte Ave
Colin McWilliams, Property Owner of 727 N. Ewing Street, colinm@rioenvironmental.com
Tyler Wurne, Property Owner of 817 9th Ave, tyler@tdappraisal.com

Call to Order:

Chair Harbage opened the meeting at 6:00 p.m. and read the Order of Meeting procedures. A quorum of three (3) was noted.

Minutes from Last Meeting on February 11, 2020:

Commissioner Wilson moved to Approve the minutes as written.
Commissioner Ophus Seconded the motion.
Minutes were Approved unanimously by three (3) votes as written.

Public Hearing: Item 1 – Consider a CUP for Property Located at 1337 Butte Avenue

Consider a conditional use permit (CUP) to allow a parking lot use in the R-3 (Residential) District for a property with a legal description of Lot 8 in Block 12 of the Flowerree Addition to the City of Helena, Lewis and Clark County, Montana, with an address of 1337 Butte Avenue, Helena, MT 59601.

Staff Presentation:

Staff provided a presentation including pictures of the subject property and a summary of the staff report. The applicant previously applied for a CUP on August 1, 2019 and was approved by the Zoning Commission on October 8, 2019 with a 4:1 vote.

As of March 10, 2020, other than the initial letters in favor of this proposal that were included in the meeting packet, no additional public comments have been received.

Questions asked of Staff:

Commissioner Ophus asked City staff if any materials were provided to suggest the layout of the proposed lighting fixtures by the applicant. City staff informed the Commission that the applicant would address this in their presentation.

Chair Harbage inquired about a note in the application to reset the stop sign at the corner of the property and asked City staff if they could confirm stop signs were located at the intersection of Butte Ave and Roberts Street. City staff confirmed the intersection was a four way stop with four (4) stop signs.

No further questions from the Board.

Applicant Presentation:

The applicant, Darryl Rensmon of Opportunity Bank, addressed the Commission and gave a brief history of the bank and its impact in Helena and Montana. Mr. Rensmon explained why the proposed parking lot was necessary at this location, citing it was their corporate headquarters and currently staffs seventy-nine (79) people. The location houses a corporate training center as well as a large meeting space. The Bank also offers their meeting space out to local organizations as part of their community banking philosophy.

Mr. Rensmon presented images of a 6 foot fence that was installed between another Opportunity Bank parking lot and residential area in Billings, MT. Applicant addressed the proposed sidewalk improvements to include an ADA ramp as well as bring the current sidewalks into compliance under the City code. The current sidewalks are not complete in areas and only four (4') feet wide in others.

Applicant listed the following as their neighborhood vision for the project:

- Develop a parking lot that provides safe parking for our team;
- Uses a screening fence that enhances the neighborhood;
- Significantly improves pedestrian traffic flow;
- Partners with the City to support the climate initiatives by exceeding the landscape requirements by over sixty (60%) percent;
- Provides landscaping that will match the surrounding growth; and
- Overall enhances the entire neighborhood.

In conclusion, Mr. Rensmon explained the vehicles meant for the parking lot already exist in the area and it is the Bank's intention to bring them off the street and into the proposed parking lot.

Project Engineer, Bryon Stahly of Byron Engineering and Associates addressed the Commission. Mr. Stahly addressed the current on-street parking issue at the building through aerial photos. He explained how the proposed plan would exceed the City's landscaping requirement by sixty (60%) percent. A traffic study was conducted during the morning peak time on a weekday between 6:00 AM and 8:30 AM and found no problems even in poor weather conditions. There was one truck that stopped longer than the rest, but Mr. Stahly confirmed the truck's total stop time was only about three (3) seconds.

Mr. Stahly explained the six-foot (6') fence would be installed along both the west side and north side of the parking lot. Lighting was not included in the previous proposal, but they decided to include it in this proposal. Currently, there is some cast lighting from a streetlamp across the street to the east of the proposed parking lot. So, in order to provide lighting on the west side of the parking lot, new lighting fixtures are being proposed inside the fence line to face away from residential neighbors and are manufactured to shine at a downward angle.

Questions asked of Applicant:

Commissioner Ophus thanked the applicant for their explanation of the proposed lighting and stated he believed the applicant addressed all his concerns regarding lighting. Commissioner Ophus asked the applicant to expand on study or decision for the narrow aisle width being proposed at sixteen (16') feet.

Mr. Stahly agreed the aisle was tight at sixteen (16') feet but noted the minimum was currently fourteen (14') feet. Due to the aisle being one-way traffic only, Mr. Stahly confirmed the aisle would still be functional and would meet current requirements.

Public Comment:

Chris Hellwitz, residing at 1327 Butte Avenue (neighbor to proposed parking lot), addressed the Commission. Mr. Hellwitz spoke in favor of the parking lot and stated he appreciated the Commission's concerns since he too had similar concerns in the beginning. But, after he spoke with representatives of

the project and they explained their plan to address his concerns, he agreed the parking lot would improve the overall surrounding neighborhood. Mr. Hellwitz addressed the lighting as an initial issue but said the six-foot (6') fence coupled with the four (4') foot lighting poles would cause no issue. He confirmed the noise factor wouldn't really apply since they already live next the Helena High School and were use to kids driving their diesel trucks by in the morning.

No further public comment.

Board Discussion:

Commissioner Wilson spoke in favor of the proposal but voiced his disappointment in the loss of affordable housing to make way for this project. He went on to say that the City should look into ways to encourage the reuse of materials from demolitions in order to comply with the City's zero waste initiative.

Commissioner Ophus expressed his support for the proposal and also recommended the City and the Zoning Commission consider aisle widths citing them as being factors considered in other jurisdictions but not in Helena.

No further discussion by the Board.

Motion:

Commissioner Wilson moved to Approve a resolution granting a conditional use permit to allow a parking lot in the R-3 (Residential) district for property legally described as Lot 8 in Block 12 of the Flowerree Addition to the City of Helena, Lewis and Clark County, Montana as recommended by City staff.

Commissioner Ophus seconded the motion.

Chair Harbage expressed her appreciation of the thorough staff report as well as the applicant's thoughtful presentation that addressed many of the Commissions concerns.

Motion passed to approve unanimously by three (3) votes.

The Helena City Commission will hear this proposal on Monday, May 4, 2020.

Public Hearing: Item 2 – Consider a CUP for Property Located at 817 9th Avenue

Consider a conditional use permit (CUP) to allow an 800 square foot general professional services use in the R-3 (Residential) District for a property with a legal description of Lot 5 in Block 603 of the Hoback and Cannon Addition to the City of Helena, Lewis and Clark County, Montana, with an address of 817 9th Avenue, Helena, MT 59601.

Staff Presentation:

Staff provided a presentation including pictures of the subject property and a summary of the staff report.

As of March 10, 2020, only one public comment was received in support of the proposed business and was included in the Commissioner's meeting packet.

Questions asked of Staff:

Commissioner Ophus asked City staff to elaborate on the thought process that was taken identifying the professional uses that would not be allowed. City staff confirmed the list came directly from the definition for General Professional Services. It is defined as *professional and personal cared services where customers come to the property for the service including engineering, accounting, legal, architectural, real estate, insurance, photography, fitness, weight loss, postal, hair styling, pet grooming, copying and printing, and laundry and dry-cleaning facilities.*

Commissioner Wilson asked City staff if the applicant intended to use the property as both residential and commercial. City staff confirmed this to be correct citing the applicant intends to use the 800 square foot as a professional office but proposes the space be a residential use for the applicant's elderly parents when they come to visit. But, the applicants themselves do not intend reside at the property.

Chair Harbage asked City staff how the three (3) off street parking requirement compared to the two uses. City staff explained that the house had a detached garage and two (2) on street parking spaces in front of the house. Pursuant to Section 11-22-33, parking spaces out of 1,000 square feet of gross floor area are required for a general professional services use. In addition, two (2) additional parking spaces are required associated with the dwelling unit for a total of five (5) parking spaces.

No further questions from the Board.

Applicant Presentation:

Colin McWilliams, applicant's representative residing at 727 N. Ewing Street, addressed the Commission. Mr. McWilliams thanked Hillary Taylor for her assistance in preparation for this hearing.

Commissioner Wilson asked the applicant about the residential portion of the property and what it is intended for. Mr. McWilliams responded by stating that the second floor was an addition that was similar to a mother-in-law apartment without a kitchen. Their intent is to split the house with the front half of the house becoming the office space and the back half of the house would become the residential portion of the property.

Commissioner Wilson followed up by asking the applicant if they intended to rent the residential space out when it was not occupied by visiting relatives. The applicant responded no, citing that the nature of his small business meant there would be no drop-in customers and their intent was to maintain the character of the neighborhood.

Tyler Warne, owner of property located at 817 9th Avenue, addressed the Commission. Mr. Warne gave a brief history of the properties occupancy to demonstrate the proposed use as being in line with past uses. He stated he was a real estate appraiser and has been using the subject property as his office space for the past five years, with the occasional part-time staff person or drop-in customer. Before it was his office, it was also a small daycare. He stated the reason for the conditional use permit was due to Mr. McWilliams not residing at the property, and that home offices were an allowable use in the R-3 (Residential) district.

No further questions for the applicant.

Public Comment:

No members of the Public present.
Public Hearing closed.

Board Discussion:

Commissioner Ophus expressed his concern over the limited list of exclusions to the uses allowed at the property and how it didn't necessarily affect what the applicant was proposing. Commissioner Ophus suggested there was a better way to condition the use in regard to impacts to the neighborhood rather than just comparing it to the short list of limitations.

Commissioner Wilson questioned if by excluding "fitness" would it also exclude uses such as yoga noting the applicant's wife as being a yoga instructor.

Director, Sharon Haugen addressed the Commission and stated she also struggled with this use and recalled their previous conversation during their last work session where the idea of having a “light” professional office use. Director Haugen suggested this case would serve as a good example to illustrate how they could separate those uses. She also asked the Zoning Commission to consider the square footage of the property and what potential uses and/or impacts could result from it.

Chair Harbage suggested the Commission change the condition laid out in the staff report to state something like, *“the General Professional use shall not allow the use of the property for uses otherwise included in the definition of General Professional Services that would significantly change the impacts considered by the Commission.”*

Commissioner Ophus suggested the Commissioner consider the neighborhood impacts for the basis of their decision such as odor, traffic, and glare.

Director, Sharon Haugen explained this would be difficult to track through business licensing purposes from one use to another. She suggested they instead condition the CUP to limit the number of outside clients.

Though the applicant stated he currently did not have any clients in state, Commissioner Ophus was hesitant to condition the CUP to limit the number of clients due to the possibility of that changing in the future and even if this changed, Commissioner Ophus did not feel it would significantly impact the neighborhood.

Director, Sharon Haugen explained the purpose of the list was so the business licensing department could impose certain building code requirements such as ventilation depending on the type of business being proposed.

Commissioner Ophus, stated it was essentially a home business without the applicant actually residing at the residence. Therefore, there are no foreseeable impacts of this use beyond what is already currently there.

Commissioner Wilson agreed with Commissioner Ophus’s statements and added he was comfortable with the proposed use so long as the Commission was not conditioning the CUP in a way that would “lock in” or significantly restrict the applicant since any future use would be required a new application anyways.

Chair Harbage suggested adding language to condition number 5 to suggest the list was not all inclusive and uses not specifically listed may also be acceptable.

Commissioner Ophus stated he would support this but also suggested they as a Commission include something that indicates what they see as the problematic type of use or what specific impacts should be considered. Commissioner Ophus asked Director Sharon Haugen if it were possible to condition the CUP to the specific use.

Director, Sharon Haugen suggested the Commission pass the CUP as is and then work with the City Attorney to draft language to encapsulate the issues the Commission discussed tonight before it goes to the City Commission.

Commissioner Ophus stated he was comfortable with this option.

No further discussion by the Board.

Motion:

Commissioner Ophus moved to conditionally Approve a resolution granting a Conditional Use Permit to allow an 800 square foot general professional use in the R-3 (Residential) district for the property legally described as Lot 5 in Block 603 of the Hoback and Cannon addition to the City of Helena according to the official map and plat on file and on record in the office of the County Clerk and Recorder of Lewis and Clark County, Montana with an address of 817 9th Avenue, Helena, Montana and the five (5) conditions included in the City staff report. Commissioner Ophus included an additional request for City staff to work on and follow up on the concerns previously stated regarding item number 5 of the staff report.

Commissioner Wilson seconded the motion.

Motion passed to Approve unanimously by three (3) votes.

The Helena City Commission will hear this proposal on Monday, April 20, 2020.

New Business:

Director Sharon Haugen reminded the Commission of the scheduled work session on April 14th to go over the land use chart and stated City staff would include general professional services as a topic of discussion for that meeting.

Next Meeting:

The next regularly scheduled meeting is April 14, 2020.

Adjournment:

Meeting adjourned at 7:26 PM.